

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA**

DOROTHY HOBSON, as personal)
representative and administrator for the)
Estate of Kenneth Hobson,)

Plaintiff,)

v.)

CAUSE NO.: 2:10-CV-429-TLS

ROY DOMINGUEZ, individually and in)
his official capacity as sheriff of Lake)
County, Indiana, *et al.*,)

Defendants.)

OPINION AND ORDER

This matter is before the Court on a Joint Motion for Summary Judgment on Counts I, II, III, V, VI, VIII, and IX of Plaintiff's Second Amended Complaint [ECF No. 157] filed by the Defendants on August 24, 2012. In the Joint Motion, the Defendants argue that the Plaintiff failed to meet the Court's deadline for disclosure of expert witnesses, and that without expert witness testimony the Plaintiff will be unable to prevail upon the counts set forth in the Motion. Accordingly, the Defendants request summary judgment on these counts. The Plaintiff responded on the same day with a Motion to Strike the Defendants' Motion [ECF No. 159], in which the Plaintiff argued that the Court should strike the Defendant's filing, but also argued for denial of the Defendants' Motion on the merits and for the Court to set a new expert discovery schedule because of the good faith mistake by Plaintiff's counsel. On October 5, 2012, Magistrate Judge Paul Cherry entered an Order [ECF No. 172] denying the Plaintiff's request to strike the Joint Motion, but granting the Plaintiff's request for a new expert discovery schedule. Magistrate Judge Cherry noted in his Order that the Joint Motion remained pending.

Because the Joint Motion was premised on the failure of the Plaintiff to meet the previous discovery schedule, and because Magistrate Judge Cherry has extended that discovery schedule, the Court finds that the Joint Motion is now moot, and the Court will deny it as such.

For the foregoing reasons, the Court DENIES AS MOOT the Joint Motion [ECF No. 157].

SO ORDERED on November 28, 2012.

s/ Theresa L. Springmann
THERESA L. SPRINGMANN
UNITED STATES DISTRICT COURT
FORT WAYNE DIVISION